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## STATE OF MICHIGAN

OFFICE OF THE GOVERNOR

LANSING

JOHN ENGLER  
GOVERNOR

August 19, 1996

The Honorable William M. Oakley  
Mayor of Romulus  
Administrative and Legislative Offices  
11111 Wayne Road  
Romulus, Michigan 48174

Dear Mayor Oakley:

I appreciate your letter of last month urging my support for efforts to change the Federal Communications Commission's (FCC) recently proposed rules on the utilization of public rights-of-way. While I certainly support state control over intrastate telecommunications issues, I am troubled by the recent discriminatory actions taken by some municipalities in Michigan. I believe communities ought to be looking for ways to attract new telecommunications companies. Instead, some are trying to circumvent Michigan law and assess illegal franchise fees. Actions taken by the City of Troy, for example, discourage investments in Michigan communities, depriving citizens of competitively priced telecommunications services.

As you know, the Michigan Telecommunications Act (MTA) prohibits local municipalities from charging excessive fees for use of the public right-of-way. For companies providing telecommunications services, fees can only be recovered to offset the cost of maintaining and overseeing the right-of-way. Fees that tax revenues from telecommunications services beyond these costs are prohibited. Some municipalities have chosen to disregard this prohibition and could face possible enforcement penalties as outlined in the MTA.

While the courts may have to decide whether certain sections of the MTA are constitutional, it is clear that federal law would supersede any state constitutional protection in this case. The FCC is working to ensure that all new

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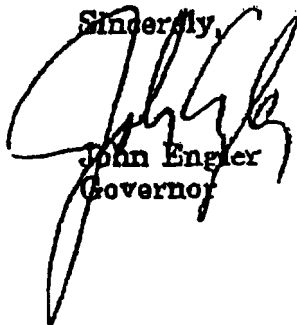
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The Honorable William M. Oakley  
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entrants in the telecommunications arena have a level playing field when entering the market. Our state law provides for such protection and I would prefer that we control rules and regulations on this point. However, I cannot support those municipalities who would like to get out from both state and federal guidelines in this instance.

Sincerely,

  
John Engler  
Governor

JE:rlf

cc: Chairman Strand  
Commissioner Svanda  
Commissioner Shea



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May 8, 1997

Mr. Michael Holmes  
Ameritech Michigan  
Room 1750  
444 Michigan Avenue  
Detroit, MI 48226-2517

*RE: Ameritech Pole Attachment Rate*

Dear Mr. Holmes:

To avoid any possible misunderstanding, this letter will confirm the fact that the Michigan Cable Telecommunications Association is seeking to open a dialogue with Ameritech Michigan regarding Ameritech's pole attachment tariff which sets a rate of \$1.97. After several months of requests from MCTA, Ameritech finally provided us with a two-page worksheet, but we have not had any opportunity to discuss that worksheet with anyone from Ameritech. In particular, we have sought (and continue to seek) an explanation of the rationale, if any, behind Ameritech's apparent mistakes in applying the applicable rate methodology. On several occasions, I have expressed to Jim Ault and John Lenahan MCTA's willingness to meet with the person(s) who calculated Ameritech's tariff rate and discuss the manner in which the rate was calculated. To date, however, Ameritech has not agreed to such a meeting or even a teleconference to discuss the issues related to the \$1.97 rate.

In a recent letter to me, Jim Ault stated that he is not authorized to conduct any negotiations with MCTA on Ameritech's behalf regarding these rate calculations. Accordingly, I am writing to you to inquire whether you have the authority to facilitate the meeting which MCTA has been seeking for several months. If not, please let me know if there is anyone else who I should contact in an effort to resolve this matter.

We would like the record to be clear that MCTA is ready, willing and able to discuss this matter in a fair and open-minded manner, with the intent of promptly resolving this issue. So far, we have not had any opportunity to discuss the \$1.97 rate with anyone from Ameritech who is familiar with how and why the rate was calculated as it was. Jim Ault has freely admitted that he is not qualified to discuss these issues with our consultant because Jim is a lawyer, and not a rate expert. Accordingly, we have requested the opportunity to speak with someone who is familiar with the calculation of Ameritech's pole attachment rate so that we

Mr. Michael Holmes

May 8, 1997

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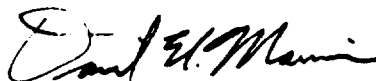
may express our concerns and work together to reach a mutual understanding regarding the appropriate rate. If, in fact, there is a legitimate explanation for the manner in which Ameritech's rate was calculated, logic would dictate that someone at Ameritech would be willing to provide us with that explanation. Having been denied any such explanation, we can only assume that Ameritech has either made mistakes or has intentionally decided to use the wrong numbers in order to inflate the rate. We think it is only fair, however, to give Ameritech an opportunity to explain its interpretation of the methodology.

In Mr. Ault's recent letter, he states that he has "reviewed the MCTA's comments and criticisms regarding the \$1.97 rate and believe them to be without merit." We find this statement to be somewhat enigmatic in that we have not been provided with an opportunity to express all of our comments and criticisms regarding the \$1.97 rate, other than to point out the single most obvious error (i.e., illegally billing cable companies for the amounts which Ameritech pays to Detroit Edison and Consumers Energy). In a last ditch effort to facilitate a meaningful discussion between the parties, we will provide you with our comments at this time, in the hope that you will convey our thoughts to your tariff analysts and provide us with our long-sought opportunity to work cooperatively with Ameritech to resolve these issues, without the need for further legal proceedings. To this end, I am enclosing a summary which lists the apparent errors in Ameritech's calculation of the \$1.97 pole attachment rate, along with a spreadsheet showing the proper rate calculation. We respectfully request that you forward these materials to your tariff department and then either take the steps necessary to correct these errors or, in the alternative, provide us with specific explanations as to why Ameritech believes that each of the apparent errors are actually justified. As always, we remain willing to discuss these matters with you and your tariff staff at any mutually convenient time.

In view of the time which has already passed, we would appreciate your prompt response to this request. Thank you.

Very truly yours,

FRASER TREBILCOCK DAVIS & FOSTER, P.C.



David E. S. Marvin

DEM/mjc

Enclosures

cc: Colleen McNamara (w/o encl.)  
Paul Glist (w/encl.)  
Jim Ault (w/encl.)  
John Lenahan (w/encl.)

## **Summary of Errors in Ameritech's Calculation of the \$1.97 Pole Attachment Rate**

1. **Chargeable maintenance expenses.** An important number in the calculation of a pole attachment rate is the total amount of the expenses incurred by the utility in maintaining its own poles. Under the old Uniform System of Accounts for telephone companies (47 CFR Part 31), this figure was the total amount in the account labeled "Pole Maintenance." This changed, however, with the adoption of the new USOC (47 CFR Part 32). Now, the total figure in account 6411 includes a matrix of different costs. Even though the account is still labeled "Pole Maintenance," the total matrix includes other pole expenses besides the pure maintenance expenses. Most notably, the matrix of expenses in Account 6411 includes the rental fees paid by Ameritech to other utilities for attaching Ameritech's lines to poles owned by those other utilities. Obviously, these rental expenses have nothing to do with the maintenance of Ameritech's own poles. Therefore, it is widely recognized that these rental expenses should be deducted from the total figure in ARMIS Account 6411 in order to arrive at the correct figure to use in calculating an accurate pole attachment rate. Apparently misled by the title of the new ARMIS account, Ameritech has based its pole attachment rate on all of its pole expenses, including both its own maintenance expenses and the pole attachment fees which Ameritech pays to other utilities such as Detroit Edison and Consumers Energy for attaching Ameritech lines to poles owned by those other utilities. While it is easy to understand how this mistake may have been made, it is impossible to justify Ameritech's refusal to correct this clear error.
2. **Administrative expenses.** In calculating its pole attachment rate, Ameritech has used a figure of \$ [REDACTED] for administrative expenses. Proper accounting procedure would be to add account number 6710 plus account number 6720 and the rents component of maintenance (account number 6411). Utilizing the correct procedure would produce total administrative expenses in the amount of \$248,037,000.
3. **Accumulated Deferred Taxes.** In calculating its pole attachment rate, Ameritech has used a figure of \$ [REDACTED] for accumulated deferred taxes (plant). The correct accounting procedure would be to add account number 4100 to account number 4340, producing a total of \$611,980,000. Prorating that total to poles by asset value produces a figure of \$5,806,262.64 for accumulated deferred taxes (poles), as opposed to the figure of \$ [REDACTED] utilized by Ameritech.
4. **Rate of Return.** In calculating its pole attachment rate, Ameritech has utilized a capital return figure of [REDACTED]%. The correct figure for capital should be the overall return most recently authorized by the MPSC; i.e., 10.43%.

**Net effect:** Correcting all of the above-listed errors would reduce the Ameritech pole attachment rate from \$1.97 to \$1.21 per pole per year.

**CALCULATION OF MAXIMUM POLE ATTACHMENT RATE**  
**Ameritech Michigan**  
**Year End 1995**

	(1) AM Filed	(3) Correcting All Errors
Calculated by Paul Glist		
Calculated: 2/13/97		
<b>Net Investment Per Bare Pole</b>		\$22.36
Gross Investment in Pole Plant		\$73,528,725.00
-Depreciation Reserve for Poles		\$57,503,860.00
-Accumulated Deferred Taxes		\$5,806,262.64
=Net Investment in Pole Plant		\$10,218,602.36
-Net Investment in Appurtenances (5%)		\$510,930.12
=Net Investment in Bare Pole Plant		\$9,707,672.24
/Number of Poles		434,177
=Net Investment per Bare Pole		\$22.36
<b>CARRYING CHARGES</b>		
<b>Maintenance</b>		
Chargeable Maintenance Expenses		\$479,000.00
/Net Investment in Pole Plant		\$10,218,602.36
=Maintenance Carrying Charge		4.69%
<b>Depreciation</b>		
Annual Depreciation Rate for Poles		5.70%
Gross Investment in Pole Plant		\$73,528,725.00
/Net Investment in Pole Plant		\$10,218,602.36
=Gross/Net Adjustment		719.56%
Deprec Rate Applied to Net Pole Plant		41.01%
<b>Administrative</b>		
Administrative Expenses		\$248,037,000.00
Total Plant In Service		\$7,749,926,570.00
-Depreciation Reserve for TPIS		\$3,604,827,895.00
-Accumulated Deferred Taxes		\$611,980,000.00
=Net Plant in Service		\$3,533,118,675.00
Administrative Carrying Charge		7.02%
<b>Taxes</b>		
Normalized Tax Expense		\$341,424,617.00
Total Plant In Service		\$7,749,926,570.00



-Depreciation Reserve for TPIS	\$3,604,827,895.00
-Accumulated Deferred Taxes	\$611,980,000.00
=Net Plant in Service	\$3,533,118,675.00
Tax Carrying Charge	9.66%

<b>Return</b>	
Return Authorized by State	10.43%
<b>Total Carrying Charges</b>	72.82%

**Allocation of Annual Carrying Costs**

Space Occupied by Cable	1.0
/Total Useable Space	13.5
Charge Factor	7.41%

**Maximum Rate**

Net Investment Per Bare Pole	\$22.36
*Carrying Charges	72.82%
*Charge Factor	7.41%
<b>=MAXIMUM RATE</b>	<b>\$1.97      \$1.21</b>

**DATA ENTRY**

	Account	Table	Source
Gross Investment in Pole Plant	\$73,528,725.00 2411(af)	B-1-2	ARMIS 43-02
Gross Investment in Total Plant	\$7,749,926,570.00 240(af)	B-1-2	ARMIS 43-02
Depreciation Reserve for Pole Plant	\$57,503,860.00 0390(j)	B-5-4	ARMIS 43-02
Depreciation Reserve for TPIS	\$3,604,827,895.00 0490(j)	B-5-4	ARMIS 43-02
Pole Maintenance Expense	\$479,000.00 6411(ac)	I-1-2	ARMIS 43-02
Depreciation rate for Poles (FCC)	5.70% FCC		
Administrative Expense	\$231,644,000.00 6710(ab)	I-1-3	ARMIS 43-02
Administrative Expense	\$12,479,000.00 6720(ab)	I-1-3	ARMIS 43-02
Administrative Expense (from Maintenance)	\$3,914,000.00 6411(af)	I-1-2	ARMIS 43-02
Taxes	\$341,424,617.00 7200(bb)	I-1-5	ARMIS 43-02
Accumulated Deferred Taxes	(\$102,254,000.00) 4100(bb)	B-1-3	ARMIS 43-02
	\$714,234,000.00 4340(bb)	B-1-4	ARMIS 43-02
	\$611,980,000.00		
Accumulated Deferred Taxes (Poles)	\$5,806,262.64	Deferred Taxes prorated by asset value	
Overall Rate of Return	10.43%	PSC authorized	
Number of Poles	434,177 0330(v)	S-1, I.A	ARMIS 43-08

Note: certain Ameritech entries in column 1 were illegible, best estimate entered

Column (3) corrects for maintenance charge; administrative charge; accumulated deferred taxes (plant); accumulated deferred taxes (poles); and cost of capital.

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of:

Application by Ameritech Michigan  
Pursuant to Section 271 of the  
Telecommunications Act of 1996 to  
Provide In-Region, InterLATA  
Services in Michigan

CC Docket No. 97-137

STATE OF MICHIGAN )

) ss.

**Proof of Service**

COUNTY OF INGHAM )

Marcele J. Challender, being first duly sworn, deposes and says that on this 9th day of June, 1997 she served a copy of the Comments of The Michigan Cable Telecommunications Association upon the following individual(s):

Department of Justice  
c/o Donald J. Russell  
Telecommunications Task Force  
Antitrust Division Room 8205  
555 Fourth Street, N.W.  
Washington, D.C. 20001

ITS, Inc.  
2100 M Street, N.W.  
Suite 140  
Washington, D.C. 20037

Michigan Public Service Commission  
6545 Mercantile Way  
Lansing, Michigan 48909

by placing the same in an envelope(s) addressed to said individual(s) at the aforesaid business address(es) and sending said envelope(s) via Federal Express.

FRASER  
TREBILCOCK  
DAVIS &  
FOSTER,  
P.C.  
LAWYERS  
LANSING,  
MICHIGAN  
48933

  
Marcele J. Challender

Subscribed and sworn to before me  
this 9th day of June, 1997

  
C.S. Pyle

Ingham County, Michigan  
Commission Expires: 2/26/00